

REMARKS

Reconsideration and allowance of this application in light of the foregoing amendments and accompanying remarks is respectfully requested.

THE REJECTION OF CLAIMS 10-16 IS OVERCOME

Claims 10-13, 15, and 16 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,409,034 to Schorner.

Claims 10-13, 15, and 16 were rejected under 35 U.S.C. §103(b) as being anticipated by U.S. Patent No. 5,931,828 to Durkee.

Dependent claim 14 was rejected under 35 U.S.C. §103(a) as being unpatentable over Schorner or Durkee.

Claim 10 is the only independent claim pending in the application. Claim 10 sets forth a novel hinge structure that employs an elastomeric element having certain characteristics. Among other things, independent claim 10 sets forth the elastomeric element exerting a force to urge said two members (e.g., closure lid and closure base) from the closed position toward the open position.

It is respectfully submitted that the Examiner fails to appreciate that Durkee does not teach the present invention because, among other things, Durkee sets forth, in column 5, lines 64-67, that as the cover is moved to the closed position and passes the over-center point, the cover 52 is drawn to the closed position by spring-back of elastic deformation of the resilient portions 60, 62. This is completely opposite from the structure set forth in the instant application independent claim 10 wherein the elastomeric element exerts "a force to urge said two members from said closed position toward said open position."

This is further emphasized in the instant application dependent claim 15 which states that the elastomeric element urges the two members from the closed position to the open position “throughout the entire range of said movement...between the closed position and the open position. [emphasis supplied]”

Independent claim 10 also sets forth the elastomeric element as having an “outer surface” that is “in tension when said two members are in said closed position.”

Independent claim 10 also sets forth the elastomeric element as having an inner surface which is “in compression when said two members are in said closed position.” The Schorner patent does not disclose these relationships of the elastomeric element, and the Examiner has not shown how those relationships as set forth in independent claim 10 are “inherent” in the elastomeric element disclosed in Schorner.

Further, various unique features set forth in the dependent claims are clearly not taught or suggested by Schorner. For example, the design disclosed in Schorner requires that (1) special brackets 50 and 52 be formed of a special deformable material that deforms when the lid is closed, and (2) the elastically deformable element 30 be arranged between the two special brackets 50 and 52. See Schorner, column 5, lines 38-51. The brackets 50 and 52 are said to be formed from polypropylene (see Schorner at column 5, line 59). In contrast, dependent claim 16 of the instant application specifically sets forth that the elastomeric element has two lateral margins which are “laterally exposed when the two members (e.g., the lid and base) are in said closed position as well as when said two members are in said open position.” Schorner specifically teaches that the elastomeric element has lateral margins which are not laterally exposed, and has an

Serial No. 10/623,625 - - - 10

elastomeric element that is constrained within two special, deformable elements 50 and 52.

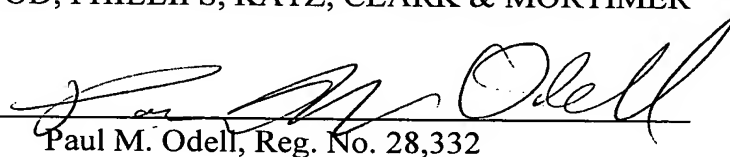
It is respectfully submitted that the Examiner has misconstrued the teachings of the present invention and/or the disclosures of the cited references.

It is believed that when the present invention and the cited references are properly understood, it will become evident that the teachings of these references, either alone or in combination, do not disclose or suggest the novel apparatus of the present invention as claimed. Therefore, the rejections of independent claim 10, and its dependent claims 11-16, are traversed and should be withdrawn.

Further, it is believed that this entire application is now in condition for allowance, and such action is respectfully requested.

Respectfully submitted,

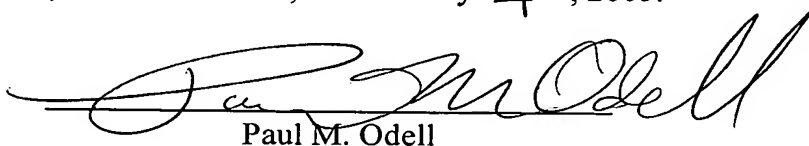
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I hereby certify that this correspondence is being deposited with sufficient postage as First Class Mail in an envelope addressed to Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450, on February 4, 2005.

  
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Serial No. 10/623,625 - - - - 3

**AMENDMENTS TO THE DRAWINGS**

None.